

armed force under the jurisdiction of that Secretary—

(1) discharge an officer described in subsection (b); or

(2) transfer such an officer from the active-duty list of that armed force to the reserve active-status list of a reserve component of that armed force.

(b) COVERED OFFICERS.—(1) The authority under this section may be exercised in the case of an officer who—

(A) has completed not more than six years of service as a commissioned officer in the armed forces; or

(B) has completed more than six years of service as a commissioned officer in the armed forces, but has not completed a minimum service obligation applicable to that member.

(2) In this subsection, the term “minimum service obligation” means the initial period of required active duty service together with any additional period of required active duty service incurred during the initial period of required active duty service.

(c) APPOINTMENT OF TRANSFERRED OFFICERS.—An officer of the Regular Army, Regular Air Force, Regular Navy, or Regular Marine Corps who is transferred to a reserve active-status list under this section shall be discharged from the regular component concerned and appointed as a reserve commissioned officer under section 12203 of this title.

(d) REGULATIONS.—The Secretary concerned shall prescribe regulations for the exercise of the Secretary’s authority under this section.

(Added Pub. L. 108–375, div. A, title V, §501(c)(1)(A), Oct. 28, 2004, 118 Stat. 1873; amended Pub. L. 110–181, div. A, title V, §503(b), Jan. 28, 2008, 122 Stat. 95.)

AMENDMENTS

2008—Subsec. (b)(1)(A), (B). Pub. L. 110–181 substituted “six years” for “5 years”.

EFFECTIVE DATE

Section effective on the first day of the first month beginning more than 180 days after Oct. 28, 2004, see section 501(g) of Pub. L. 108–375, set out as an Effective Date of 2004 Amendment note under section 531 of this title.

CHAPTER 37—GENERAL SERVICE REQUIREMENTS

Sec.	
651.	Members: required service.
652.	Notice to Congress of proposed changes in units, assignments, etc. to which female members may be assigned.
653.	Minimum service requirement for certain flight crew positions.
654.	Policy concerning homosexuality in the armed forces.
655.	Designation of persons having interest in status of a missing member.

REPEAL OF ITEM

Pub. L. 111–321, §2(b), (f)(1), Dec. 22, 2010, 124 Stat. 3516, provided that, effective on the date established by section 2(b) of Pub. L. 111–321, set out in a note under section 654 of this title, the table of sections for this chapter is amended by striking the item relating to section 654.

AMENDMENTS

2006—Pub. L. 109–163, div. A, title V, §541(a)(2), Jan. 6, 2006, 119 Stat. 3252, added item 652.

1996—Pub. L. 104–106, div. A, title V, §569(d)(2), Feb. 10, 1996, 110 Stat. 352, added item 655.

1994—Pub. L. 103–337, div. A, title XVI, §1671(b)(6), Oct. 5, 1994, 108 Stat. 3013, struck out item 652 “Ready Reserves: requirement of notification of change of status”.

1993—Pub. L. 103–160, div. A, title V, §571(a)(2), Nov. 30, 1993, 107 Stat. 1673, added item 654.

1989—Pub. L. 101–189, div. A, title VI, §634(a)(2), Nov. 29, 1989, 103 Stat. 1454, added item 653.

1978—Pub. L. 95–485, title IV, §405(d)(2), Oct. 20, 1978, 92 Stat. 1616, added item 652.

1958—Pub. L. 85–861, §33(a)(4)(A), Sept. 2, 1958, 72 Stat. 1564, substituted “GENERAL SERVICE REQUIREMENTS” for “SERVICE REQUIREMENTS FOR RESERVES” in chapter heading.

PROHIBITION AGAINST MEMBERS OF THE ARMED FORCES PARTICIPATING IN CRIMINAL STREET GANGS

Pub. L. 110–181, div. A, title V, §544, Jan. 28, 2008, 122 Stat. 116, provided that: “The Secretary of Defense shall prescribe regulations to prohibit the active participation by members of the Armed Forces in a criminal street gang.”

§ 651. Members: required service

(a) Each person who becomes a member of an armed force, other than a person deferred under the next to the last sentence of section 6(d)(1) of the Military Selective Service Act (50 U.S.C. App. 456(d)(1)) shall serve in the armed forces for a total initial period of not less than six years nor more than eight years, as provided in regulations prescribed by the Secretary of Defense for the armed forces under his jurisdiction and by the Secretary of Homeland Security for the Coast Guard when it is not operating as service in the Navy, unless such person is sooner discharged under such regulations because of personal hardship. Any part of such service that is not active duty or that is active duty for training shall be performed in a reserve component.

(b) Each person covered by subsection (a) who is not a Reserve, and who is qualified, shall, upon his release from active duty, be transferred to a reserve component of his armed force to complete the service required by subsection (a).

(c)(1) For the armed forces under the jurisdiction of the Secretary of Defense, the Secretary may waive the initial period of required service otherwise established pursuant to subsection (a) in the case of the initial appointment of a commissioned officer in a critically short health professional specialty specified by the Secretary for purposes of this subsection.

(2) The minimum period of obligated service for an officer under a waiver under this subsection shall be the greater of—

(A) two years; or

(B) in the case of an officer who has accepted an accession bonus or executed a contract or agreement for the multiyear receipt of special pay for service in the armed forces, the period of obligated service specified in such contract or agreement.

(Aug. 10, 1956, ch. 1041, 70A Stat. 27; Pub. L. 85–861, §§1(12), 36B(3), Sept. 2, 1958, 72 Stat. 1440, 1570; Pub. L. 89–718, §5, Nov. 2, 1966, 80 Stat. 1115; Pub. L. 95–79, title VIII, §803(a), July 30, 1977, 91 Stat. 333; Pub. L. 96–107, title VIII, §805(b), Nov.

9, 1979, 93 Stat. 813; Pub. L. 96-513, title V, § 511(18), Dec. 12, 1980, 94 Stat. 2921; Pub. L. 98-94, title X, § 1022(b)(1), Sept. 24, 1983, 97 Stat. 670; Pub. L. 107-296, title XVII, § 1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 110-181, div. A, title V, § 505, Jan. 28, 2008, 122 Stat. 96.)

HISTORICAL AND REVISION NOTES
1956 ACT

Revised section	Source (U.S. Code)	Source (Statutes at Large)
651(a)	50 App.:454(d)(3) (1st sentence, and less applicability to members of National Security Training Corps).	June 24, 1948, ch. 625, §4(d)(3) (less 4th sentence, and less applicability to members of National Security Training Corps); added June 19, 1951, ch. 144, §1(g) (last par., less 4th sentence, and less applicability to members of National Security Training Corps), 65 Stat. 79; July 9, 1952, ch. 608, §813, 66 Stat. 509.
651(b)	50 App.:454(d)(3) (2d sentence, and less applicability to members of National Security Training Corps).	
651(c)	50 App.:454(d)(3) (3d and last sentences).	

In subsection (a), the word “male” is inserted, since the source statute (Universal Military Training and Service Act (50 U.S.C. App. 451 et seq.)) applies only to male persons. The words “subsequent to the date of enactment of this paragraph [June 19, 1951]” are omitted as executed. The words “becomes a member” are substituted for the words “is inducted, enlisted, or appointed * * * in”. The words “in the armed forces” are substituted for the words “on active training and service in the Armed Forces * * * and in a reserve component”. The last sentence is substituted for the words “or in training in the National Security Training Corps”. The words “under any provision of law” and “including the reserve components thereof” are omitted as surplusage.

In subsection (b), the words “who is not a Reserve” are inserted, since the eight year obligation for Reserves is covered by subsection (a). The words “active duty” are substituted for the words “active training and service”. The last eight words are substituted for the words “and shall serve therein for the remainder of the period which he is required to serve under this paragraph”. The words “physically and mentally” and 50 App.:454(d)(3) (last 15 words of 2d sentence) are omitted as surplusage.

In [former] subsection (c), the words “who is released from active duty” are inserted for clarity. The words “shall become a member” are substituted for the words “it shall be the duty of such person to enlist, enroll, or accept appointment in, or accept assignment to”. The words “there is a vacancy” are substituted for the words “enlistment, enrollment, or appointment in, or assignment to”. 50 App.:454(d)(3) (last sentence) is omitted as surplusage.

1958 ACT

Revised section	Source (U.S. Code)	Source (Statutes at Large)
651(a)	50 App.:454(d)(3) (2d sentence).	Aug. 9, 1955, ch. 665, §3(a) (last sentence), 69 Stat. 603.

In subsection (a), the word “male” is inserted, since the source statute applies only to male persons. The words “subsequent to the date of enactment of the Reserve Forces Act of 1955” are omitted as executed. The words “becomes a member” are substituted for the words “is inducted, enlisted, or appointed . . . in”. The last sentence is substituted for the words “on active training and service . . . and in a reserve component”. The requirement of transfer to and service in a reserve component, after active training and service is covered by subsection (b) of this section. The words “under any provision of law” and “including the reserve components thereof” are omitted as surplusage.

AMENDMENTS

2008—Subsec. (c). Pub. L. 110-181 added subsec. (c).
2002—Subsec. (a). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

1983—Subsec. (a). Pub. L. 98-94 amended subsec. (a) generally, substituting a reference to service in the armed forces for a total initial period of not less than six years nor more than eight years under prescribed regulations for the prior reference to service in the armed forces for a total of six years.

1980—Subsec. (a). Pub. L. 96-513, substituted “Secretary of Transportation” for “Secretary of the Treasury”, and “section 6(d)(1) of the Military Selective Service Act (50 U.S.C. App. 456(d)(1))” for “section 456(d)(1) of title 50, appendix”.

1979—Subsec. (a). Pub. L. 96-107 struck out “before his twenty-sixth birthday” after “force”.

1977—Subsec. (a). Pub. L. 95-79 struck out “male” after “Each” and “after August 9, 1955,” after “who”.

1966—Subsec. (a). Pub. L. 89-718 struck out reference to persons who enlisted under section 1013 of title 50 in the description of persons not required to serve in the armed forces for a total of six years.

1958—Subsec. (a). Pub. L. 85-861, §1(12), restricted section to male persons who became members of the armed forces after Aug. 9, 1955, excluded persons enlisted under section 1013 of Title 50 or deferred under the next to last sentence of section 456(d)(1) of Title 50, Appendix, reduced from eight to six years the required period of service, required any part of such service that is not active duty or is active duty for training to be performed in a reserve component, and struck out provisions which permitted members of the armed forces to count service in the National Security Training Corps as if it were service in the armed forces for the purposes of this subsection.

Subsec. (c). Pub. L. 85-861, §36B(3), repealed subsec. (c) which required members released from active duty to become members of an organized unit of a reserve component of an officers’ training program.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Section 1022(b)(2) of Pub. L. 98-94 provided that: “The amendment made by paragraph (1) [amending this section] shall apply only with respect to persons who enter the Armed Forces 60 or more days after the date of the enactment of this Act [Sept. 24, 1983].”

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-107 applicable to individuals who become members of an Armed Force after Nov. 9, 1979, see section 805(c) of Pub. L. 96-107, set out as a note under section 511 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 803(b) of Pub. L. 95-79 provided that: “The amendments made by subsection (a) [amending this section] shall take effect on the first day of the seventh calendar month beginning after the month in which this Act is enacted [July 1977] and shall apply to any female person who becomes a member of an Armed Force on or after such day.”

§ 652. Notice to Congress of proposed changes in units, assignments, etc. to which female members may be assigned

(a) RULE FOR GROUND COMBAT PERSONNEL POLICY.—(1) If the Secretary of Defense proposes to

make any change described in paragraph (2)(A) or (2)(B) to the ground combat exclusion policy or proposes to make a change described in paragraph (2)(C), the Secretary shall, before any such change is implemented, submit to Congress a report providing notice of the proposed change. Such a change may then be implemented only after the end of a period of 30 days of continuous session of Congress (excluding any day on which either House of Congress is not in session) following the date on which the report is received.

(2) A change referred to in paragraph (1) is a change that—

(A) closes to female members of the armed forces any category of unit or position that at that time is open to service by such members;

(B) opens to service by female members of the armed forces any category of unit or position that at that time is closed to service by such members; or

(C) opens or closes to the assignment of female members of the armed forces any military career designator as described in paragraph (6).

(3) The Secretary shall include in any report under paragraph (1)—

(A) a detailed description of, and justification for, the proposed change; and

(B) a detailed analysis of legal implication of the proposed change with respect to the constitutionality of the application of the Military Selective Service Act (50 App. U.S.C. 451 et seq.) to males only.

(4) In this subsection, the term “ground combat exclusion policy” means the military personnel policies of the Department of Defense and the military departments, as in effect on October 1, 1994, by which female members of the armed forces are restricted from assignment to units and positions below brigade level whose primary mission is to engage in direct combat on the ground.

(5) For purposes of this subsection, the continuity of a session of Congress is broken only by an adjournment of the Congress sine die.

(6) For purposes of this subsection, a military career designator is one that is related to military operations on the ground as of May 18, 2005, and applies—

(A) for enlisted members and warrant officers, to military occupational specialties, specialty codes, enlisted designators, enlisted classification codes, additional skill identifiers, and special qualification identifiers; and

(B) for officers (other than warrant officers), to officer areas of concentration, occupational specialties, specialty codes, designators, additional skill identifiers, and special qualification identifiers.

(b) OTHER PERSONNEL POLICY CHANGES.—(1) Except in a case covered by section 6035 of this title or by subsection (a), whenever the Secretary of Defense proposes to make a change to military personnel policies described in paragraph (2), the Secretary shall, not less than 30 days before such change is implemented, submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives notice, in writing, of the proposed change.

(2) Paragraph (1) applies to a proposed military personnel policy change, other than a policy change covered by subsection (a), that would make available to female members of the armed forces assignment to any of the following that, as of the date of the proposed change, is closed to such assignment:

(A) Any type of unit not covered by subsection (a).

(B) Any class of combat vessel.

(C) Any type of combat platform.

(Added Pub. L. 109-163, div. A, title V, § 541(a)(1), Jan. 6, 2006, 119 Stat. 3251.)

REFERENCES IN TEXT

The Military Selective Service Act, referred to in subsec. (a)(3)(B), is act June 24, 1948, ch. 625, 62 Stat. 604, as amended, which is classified principally to section 451 et seq. of Title 50, Appendix, War and National Defense. For complete classification of this Act to the Code, see References in Text note set out under section 451 of Title 50, Appendix, and Tables.

PRIOR PROVISIONS

A prior section 652, added Pub. L. 95-485, title IV, § 405(d)(1), Oct. 20, 1978, 92 Stat. 1616, related to Ready Reserve requirement of notification of change of status, prior to repeal by Pub. L. 103-337, div. A, title XVI, §§ 1661(a)(3)(A), 1691, Oct. 5, 1994, 108 Stat. 2980, 3026, effective Dec. 1, 1994. See section 10205 of this title.

Provisions similar to those in this section were contained in Pub. L. 103-160, div. A, title V, § 542, Nov. 30, 1993, 107 Stat. 1659, which was set out as a note under section 113 of this title, prior to repeal by Pub. L. 109-163, § 541(c).

§ 653. Minimum service requirement for certain flight crew positions

(a) PILOTS.—The minimum service obligation of any member who successfully completes training in the armed forces as a pilot shall be 8 years, if the member is trained to fly fixed-wing jet aircraft, or 6 years, if the member is trained to fly any other type of aircraft.

(b) NAVIGATORS AND NAVAL FLIGHT OFFICERS.—The minimum service obligation of any member who successfully completes training in the armed forces as a navigator or naval flight officer shall be 6 years.

(c) DEFINITION.—In this section, the term “service obligation” means the period of active duty or, in the case of a member of a reserve component who completed flight training in an active duty for training status as a member of a reserve component, the period of service in an active status in the Selected Reserve required to be served after—

(1) completion of undergraduate pilot training, in the case of training as a pilot;

(2) completion of undergraduate navigator training, in the case of training as a navigator; or

(3) completion of undergraduate training as a naval flight officer, in the case of training as a naval flight officer.

(Added Pub. L. 101-189, div. A, title VI, § 634(a)(1), Nov. 29, 1989, 103 Stat. 1454; amended Pub. L. 101-510, div. A, title XIV, § 1484(k)(3), Nov. 5, 1990, 104 Stat. 1719; Pub. L. 102-484, div. A, title V, § 506(a), Oct. 23, 1992, 106 Stat. 2404.)

AMENDMENTS

1992—Subsecs. (a), (b). Pub. L. 102-484, §506(a)(1), substituted “service obligation” for “active duty obligation”.

Subsec. (c). Pub. L. 102-484, §506(a)(2), substituted “the term ‘service obligation’ means the period of active duty or, in the case of a member of a reserve component who completed flight training in an active duty for training status as a member of a reserve component, the period of service in an active status in the Selected Reserve” for “the term ‘active duty obligation’ means the period of active duty”.

1990—Subsec. (a). Pub. L. 101-510, §1484(k)(3)(A), substituted “or” for “and” before “6 years”.

Subsec. (c). Pub. L. 101-510, §1484(k)(3)(B), inserted a comma after first reference to “training” in pars. (1) and (2) and after first reference to “naval flight officer” in par. (3).

EFFECTIVE DATE OF 1992 AMENDMENT

Section 506(b) of Pub. L. 102-484 provided that: “The amendments made by subsection (a) [amending this section] shall take effect as of November 29, 1989.”

EFFECTIVE DATE

Section 634(b) of Pub. L. 101-189 provided that:

“(1) Except as provided in paragraphs (2) and (3), section 653 of title 10, United States Code, as added by subsection (a)(1), shall apply to persons who begin undergraduate pilot training, undergraduate navigator training, or undergraduate naval flight officer training, as the case may be, after September 30, 1990.

“(2) Such section shall apply to persons who graduate from the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, and the Coast Guard Academy after December 31, 1991, and to persons who satisfactorily complete the academic and military requirements of the Senior Reserve Officers’ Training Corps program (provided for in chapter 103 of title 10, United States Code) after December 31, 1991.

“(3) The minimum service requirements provided for such section shall not apply in the case of any person who entered into an agreement with the Secretary concerned before October 1, 1990, and who is obligated under the terms of such agreement to serve on active duty for a period less than the applicable period specified in section 653 of such title.

“(4) For purposes of this subsection, the term ‘Secretary concerned’ has the meaning given that term in section 101(8) of title 10, United States Code.”

[For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.]

§ 654. Policy concerning homosexuality in the armed forces

(a) FINDINGS.—Congress makes the following findings:

(1) Section 8 of article I of the Constitution of the United States commits exclusively to the Congress the powers to raise and support armies, provide and maintain a Navy, and make rules for the government and regulation of the land and naval forces.

(2) There is no constitutional right to serve in the armed forces.

(3) Pursuant to the powers conferred by section 8 of article I of the Constitution of the United States, it lies within the discretion of

the Congress to establish qualifications for and conditions of service in the armed forces.

(4) The primary purpose of the armed forces is to prepare for and to prevail in combat should the need arise.

(5) The conduct of military operations requires members of the armed forces to make extraordinary sacrifices, including the ultimate sacrifice, in order to provide for the common defense.

(6) Success in combat requires military units that are characterized by high morale, good order and discipline, and unit cohesion.

(7) One of the most critical elements in combat capability is unit cohesion, that is, the bonds of trust among individual service members that make the combat effectiveness of a military unit greater than the sum of the combat effectiveness of the individual unit members.

(8) Military life is fundamentally different from civilian life in that—

(A) the extraordinary responsibilities of the armed forces, the unique conditions of military service, and the critical role of unit cohesion, require that the military community, while subject to civilian control, exist as a specialized society; and

(B) the military society is characterized by its own laws, rules, customs, and traditions, including numerous restrictions on personal behavior, that would not be acceptable in civilian society.

(9) The standards of conduct for members of the armed forces regulate a member’s life for 24 hours each day beginning at the moment the member enters military status and not ending until that person is discharged or otherwise separated from the armed forces.

(10) Those standards of conduct, including the Uniform Code of Military Justice, apply to a member of the armed forces at all times that the member has a military status, whether the member is on base or off base, and whether the member is on duty or off duty.

(11) The pervasive application of the standards of conduct is necessary because members of the armed forces must be ready at all times for worldwide deployment to a combat environment.

(12) The worldwide deployment of United States military forces, the international responsibilities of the United States, and the potential for involvement of the armed forces in actual combat routinely make it necessary for members of the armed forces involuntarily to accept living conditions and working conditions that are often spartan, primitive, and characterized by forced intimacy with little or no privacy.

(13) The prohibition against homosexual conduct is a longstanding element of military law that continues to be necessary in the unique circumstances of military service.

(14) The armed forces must maintain personnel policies that exclude persons whose presence in the armed forces would create an unacceptable risk to the armed forces’ high standards of morale, good order and discipline, and unit cohesion that are the essence of military capability.

(15) The presence in the armed forces of persons who demonstrate a propensity or intent to engage in homosexual acts would create an unacceptable risk to the high standards of morale, good order and discipline, and unit cohesion that are the essence of military capability.

(b) **POLICY.**—A member of the armed forces shall be separated from the armed forces under regulations prescribed by the Secretary of Defense if one or more of the following findings is made and approved in accordance with procedures set forth in such regulations:

(1) That the member has engaged in, attempted to engage in, or solicited another to engage in a homosexual act or acts unless there are further findings, made and approved in accordance with procedures set forth in such regulations, that the member has demonstrated that—

(A) such conduct is a departure from the member's usual and customary behavior;

(B) such conduct, under all the circumstances, is unlikely to recur;

(C) such conduct was not accomplished by use of force, coercion, or intimidation;

(D) under the particular circumstances of the case, the member's continued presence in the armed forces is consistent with the interests of the armed forces in proper discipline, good order, and morale; and

(E) the member does not have a propensity or intent to engage in homosexual acts.

(2) That the member has stated that he or she is a homosexual or bisexual, or words to that effect, unless there is a further finding, made and approved in accordance with procedures set forth in the regulations, that the member has demonstrated that he or she is not a person who engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual acts.

(3) That the member has married or attempted to marry a person known to be of the same biological sex.

(c) **ENTRY STANDARDS AND DOCUMENTS.**—(1) The Secretary of Defense shall ensure that the standards for enlistment and appointment of members of the armed forces reflect the policies set forth in subsection (b).

(2) The documents used to effectuate the enlistment or appointment of a person as a member of the armed forces shall set forth the provisions of subsection (b).

(d) **REQUIRED BRIEFINGS.**—The briefings that members of the armed forces receive upon entry into the armed forces and periodically thereafter under section 937 of this title (article 137 of the Uniform Code of Military Justice) shall include a detailed explanation of the applicable laws and regulations governing sexual conduct by members of the armed forces, including the policies prescribed under subsection (b).

(e) **RULE OF CONSTRUCTION.**—Nothing in subsection (b) shall be construed to require that a member of the armed forces be processed for separation from the armed forces when a determination is made in accordance with regulations prescribed by the Secretary of Defense that—

(1) the member engaged in conduct or made statements for the purpose of avoiding or terminating military service; and

(2) separation of the member would not be in the best interest of the armed forces.

(f) **DEFINITIONS.**—In this section:

(1) The term “homosexual” means a person, regardless of sex, who engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual acts, and includes the terms “gay” and “lesbian”.

(2) The term “bisexual” means a person who engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual and heterosexual acts.

(3) The term “homosexual act” means—

(A) any bodily contact, actively undertaken or passively permitted, between members of the same sex for the purpose of satisfying sexual desires; and

(B) any bodily contact which a reasonable person would understand to demonstrate a propensity or intent to engage in an act described in subparagraph (A).

(Added Pub. L. 103-160, div. A, title V, § 571(a)(1), Nov. 30, 1993, 107 Stat. 1670.)

REPEAL OF SECTION

Pub. L. 111-321, § 2(b), (f)(1), Dec. 22, 2010, 124 Stat. 3516, provided that, effective on the date established by section 2(b) of Pub. L. 111-321, set out in a note below, this section is repealed.

REFERENCES IN TEXT

The Uniform Code of Military Justice, referred to in subsec. (a)(10), is classified to chapter 47 (§ 801 et seq.) of this title.

DON'T ASK, DON'T TELL REPEAL

Pub. L. 111-321, Dec. 22, 2010, 124 Stat. 3515, provided that:

“SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘Don't Ask, Don't Tell Repeal Act of 2010’.

“SEC. 2. DEPARTMENT OF DEFENSE POLICY CONCERNING HOMOSEXUALITY IN THE ARMED FORCES.

“(a) COMPREHENSIVE REVIEW ON THE IMPLEMENTATION OF A REPEAL OF 10 U.S.C. 654.—

“(1) IN GENERAL.—On March 2, 2010, the Secretary of Defense issued a memorandum directing the Comprehensive Review on the Implementation of a Repeal of 10 U.S.C. 654 (section 654 of title 10, United States Code).

“(2) OBJECTIVES AND SCOPE OF REVIEW.—The Terms of Reference accompanying the Secretary's memorandum established the following objectives and scope of the ordered review:

“(A) Determine any impacts to military readiness, military effectiveness and unit cohesion, recruiting/retention, and family readiness that may result from repeal of the law and recommend any actions that should be taken in light of such impacts.

“(B) Determine leadership, guidance, and training on standards of conduct and new policies.

“(C) Determine appropriate changes to existing policies and regulations, including but not limited to issues regarding personnel management, leadership and training, facilities, investigations, and benefits.

“(D) Recommend appropriate changes (if any) to the Uniform Code of Military Justice [10 U.S.C. 801 et seq.].

“(E) Monitor and evaluate existing legislative proposals to repeal 10 U.S.C. 654 and proposals that may be introduced in the Congress during the period of the review.

“(F) Assure appropriate ways to monitor the workforce climate and military effectiveness that support successful follow-through on implementation.

“(G) Evaluate the issues raised in ongoing litigation involving 10 U.S.C. 654.

“(b) EFFECTIVE DATE.—The amendments made by subsection (f) shall take effect 60 days after the date on which the last of the following occurs:

“(1) The Secretary of Defense has received the report required by the memorandum of the Secretary referred to in subsection (a).

“(2) The President transmits to the congressional defense committees a written certification, signed by the President, the Secretary of Defense, and the Chairman of the Joint Chiefs of Staff, stating each of the following:

“(A) That the President, the Secretary of Defense, and the Chairman of the Joint Chiefs of Staff have considered the recommendations contained in the report and the report’s proposed plan of action.

“(B) That the Department of Defense has prepared the necessary policies and regulations to exercise the discretion provided by the amendments made by subsection (f).

“(C) That the implementation of necessary policies and regulations pursuant to the discretion provided by the amendments made by subsection (f) is consistent with the standards of military readiness, military effectiveness, unit cohesion, and recruiting and retention of the Armed Forces.

“(c) NO IMMEDIATE EFFECT ON CURRENT POLICY.—Section 654 of title 10, United States Code, shall remain in effect until such time that all of the requirements and certifications required by subsection (b) are met. If these requirements and certifications are not met, section 654 of title 10, United States Code, shall remain in effect.

“(d) BENEFITS.—Nothing in this section, or the amendments made by this section, shall be construed to require the furnishing of benefits in violation of section 7 of title 1, United States Code (relating to the definitions of ‘marriage’ and ‘spouse’ and referred to as the ‘Defense of Marriage Act’).

“(e) NO PRIVATE CAUSE OF ACTION.—Nothing in this section, or the amendments made by this section, shall be construed to create a private cause of action.

“(f) TREATMENT OF 1993 POLICY.—

“(1) TITLE 10.—Upon the effective date established by subsection (b), chapter 37 of title 10, United States Code, is amended—

“(A) by striking section 654; and

“(B) in the table of sections at the beginning of such chapter, by striking the item relating to section 654.

“(2) CONFORMING AMENDMENT.—Upon the effective date established by subsection (b), section 571 of the National Defense Authorization Act for Fiscal Year 1994 [Pub. L. 103–160] (10 U.S.C. 654 note) is amended by striking subsections (b), (c), and (d).”

IMPLEMENTATION OF SECTION; REGULATIONS; SAVINGS PROVISION; SENSE OF CONGRESS

Pub. L. 103–160, div. A, title V, §571(b)–(d), Nov. 30, 1993, 107 Stat. 1671, 1672, as amended by Pub. L. 111–321, §2(f)(2), Dec. 22, 2010, 124 Stat. 3516, provided that:

“(b) REGULATIONS.—Not later than 90 days after the date of enactment of this Act [Nov. 30, 1993], the Secretary of Defense shall revise Department of Defense regulations, and issue such new regulations as may be necessary, to implement section 654 of title 10, United States Code, as added by subsection (a).

“(c) SAVINGS PROVISION.—Nothing in this section or section 654 of title 10, United States Code, as added by subsection (a), may be construed to invalidate any inquiry, investigation, administrative action or proceed-

ing, court-martial, or judicial proceeding conducted before the effective date of regulations issued by the Secretary of Defense to implement such section 654.

“(d) SENSE OF CONGRESS.—It is the sense of Congress that—

“(1) the suspension of questioning concerning homosexuality as part of the processing of individuals for accession into the Armed Forces under the interim policy of January 29, 1993, should be continued, but the Secretary of Defense may reinstate that questioning with such questions or such revised questions as he considers appropriate if the Secretary determines that it is necessary to do so in order to effectuate the policy set forth in section 654 of title 10, United States Code, as added by subsection (a); and

“(2) the Secretary of Defense should consider issuing guidance governing the circumstances under which members of the Armed Forces questioned about homosexuality for administrative purposes should be afforded warnings similar to the warnings under section 831(b) of title 10, United States Code (article 31(b) of the Uniform Code of Military Justice).”

[Pub. L. 111–321, §2(b), (f)(2), Dec. 22, 2010, 124 Stat. 3516, provided that, effective on the date established by section 2(b) of Pub. L. 111–321, set out in a note above, section 571 of Pub. L. 103–160, set out above, is amended by striking out subsections (b), (c), and (d).]

§ 655. Designation of persons having interest in status of a missing member

(a) The Secretary concerned shall, upon the enlistment or appointment of a person in the armed forces, require that the person specify in writing the person or persons, if any, other than that person’s primary next of kin or immediate family, to whom information on the whereabouts and status of the member shall be provided if such whereabouts and status are investigated under chapter 76 of this title. The Secretary shall periodically, and whenever the member is deployed as part of a contingency operation or in other circumstances specified by the Secretary, require that such designation be reconfirmed, or modified, by the member.

(b) The Secretary concerned shall, upon the request of a member, permit the member to revise the person or persons specified by the member under subsection (a) at any time. Any such revision shall be in writing.

(Added Pub. L. 104–106, div. A, title V, §569(d)(1), Feb. 10, 1996, 110 Stat. 352.)

CHAPTER 38—JOINT OFFICER MANAGEMENT

Sec.

661.	Management policies for joint qualified officers.
662.	Promotion policy objectives for joint officers.
663.	Joint duty assignments after completion of joint professional military education.
664.	Length of joint duty assignments.
665.	Procedures for monitoring careers of joint qualified officers.
666.	Reserve officers not on the active-duty list.
667.	Annual report to Congress.
668.	Definitions.

AMENDMENTS

2008—Pub. L. 110–417, [div. A], title V, §522(a)(3), (c)(3), Oct. 14, 2008, 122 Stat. 4445, added items 661 and 665 and struck out former items 661 “Management policies for officers who are joint qualified” and 665 “Procedures for monitoring careers of joint officers”.

2006—Pub. L. 109–364, div. A, title V, §516(e)(2), Oct. 17, 2006, 120 Stat. 2189, substituted “officers who are joint qualified” for “joint specialty officers” in item 661.